



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY'S LANDMARK PENSION CASE HEADED BACK TO TRIAL COURT; APPELLATE COURT DISMISSES APPEAL FINDING IT PREMATURE

San Diego, CA—Twenty-four hours after the City's actuary revealed that the City's employee pension deficit had ballooned to \$2.8 billion, a state appellate court dismissed the City's landmark pension case, returning it to a jury trial for further resolution. City Attorney Michael Aguirre stated his office will seek an expedited trial date.

The court dismissed the appeal, *San Diego City Employees' Retirement System v. Michael Aguirre and the City of San Diego*, Case Nos. GIC84185, GIC851286, GIC852100, on procedural grounds finding that it was filed prematurely because issues still needed to be resolved at the lower court level.

While the City Attorney aggressively pursued legal action to rescind questionable pension benefits, he urged the Mayor and City Council in a series of memorandums to take action in reforming the City's pension system. To date no action has been taken.

"By amassing liabilities faster than assets, the City's pension system is in deep disequilibrium," said City Attorney Aguirre. "With a looming \$2.8 billion deficit, it is time for the City of San Diego to seriously consider a court-ordered reorganization of the troubled pension system."

Case Background:

On September 25, 2007, the City filed its notice of appeal with the State Court of Appeals requesting a reversal of the decision made by Superior Court Judge Jeffrey B. Barton to dismiss the City's pension case.

The City's appeal cited numerous legal errors that were made by the trial court, including the application of a one-year statute of limitations to allegations of conflict-of-interest in the making of government contracts. The appeal challenged that interpretation and cited Assembly Bill 1678, signed into law on July 12, 2007, which clarifies California's statute of limitations and specifically provides for a four-year statute of limitations on government contracts.

The City's counter lawsuit against the San Diego City Employees' Retirement System Board sought to eliminate an estimated \$900 million in illegal and unfunded pension benefits approved by City Councils in 1996 and 2002. Aguirre has argued the debt should not have been created without a vote of the people.

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